

CITY COUNCIL MINUTES
May 14, 2007
REGULAR SESSION

The Regular Session of the Auburn City Council was held in the Council Chambers, City Hall, 1225 Lincoln Way, Auburn, California on Monday, May 14, 2007 at 6:00 p.m. with Mayor Pro Tempore Keith Nesbitt presiding and City Clerk Joseph G.R. Labrie recording the minutes.

CALL TO ORDER

PLEDGE OF ALLEGIANCE

ROLL CALL:

Council Members Present: Kevin Hanley, Keith Nesbitt, Bridgett Powers, J. M. Holmes

Council Members Absent: Robert Snyder

Staff Members Present: City Manager Robert Richardson, City Attorney Michael Colantuono, Community Development Director Will Wong, Fire Chief Mark D'Ambrogi, Associate Planner Steve Geiger, Administrative Services Director Andy Heath, Airport Manager Jerry Martin, Engineering Division Manager Bernie Schroeder, Administrative Manager Joanna Belanger, Courtney Barrett, Engineering Assistant

CALL TO ORDER

ROLL CALL

By **MOTION** adjourn to a closed session under Government Code Section 54957.6: **MOTION: Holmes/Hanley/Approved by Voice**

- (1) Pursuant to Government Code Section 54957.6:
CONFERENCE WITH LABOR NEGOTIATORS
Agency Designated Representatives: David Mackowiak, Robert Richardson
- (2) Pursuant to Government Code Section 54956.9(b):
CONFERENCE WITH LEGAL COUNSEL-ANTICIPATED LITIGATION
A point has been reached where, in the opinion of the City Council on the advice of its legal counsel, based on the below-described existing facts and circumstances, there is a significant exposure to litigation against the City Council/Agency.

Receipt of Claim pursuant to Tort Claims Act or other written communication from Brad Booth threatening litigation (copy available for public inspection in City Clerk's office). G.C. 54956.9v(3)(C).

REPORT OUT OF CLOSED SESSION

No reportable action.

PLEDGE OF ALLEGIANCE

MAYOR'S ACKNOWLEDGEMENTS & ANNOUNCEMENTS

Mayor Pro Tem Nesbitt commended the Performing Arts Center presentation of a Broadway show. He said it gives some indication of what the future holds when the Performing Arts Center is up and running.

AGENDA APPROVAL

No changes were requested.

CONSENT CALENDAR

1. Minutes

By **MOTION** approve City Council Minutes of March 26, April 9, and April 23, 2007.

2. Resolution of Intention to Consider Abandoning a Portion of Right-of-Way for Pine Street and Kenmass Avenue

Council Member Holmes requested that the item be removed from Consent Calendar.

3. Acceptance of Avigation Easement over Land by the City of Auburn from C. Ceronix, Inc., a California Corporation

By **RESOLUTION 07-54** accept and authorize the City Manager to execute a Certificate of Acceptance of an avigation easement over land in the Auburn Municipal Airport Influence Area from C. Ceronix, Inc., a California Corporation.

4. Auburn Gateway Sign – Power Easement

By **RESOLUTION 07-55** approve the purchase of a five foot wide utility easement along the eastern property boundary of Lot 18 of the Woodland

Estates Subdivision as described and shown on Exhibit A and B attached herein for the sum of \$3,000.

5. **Agreement between the Auburn City Fire Department and the Placer County Office of Education for use of the Maidu Fire Station**

By **RESOLUTION 07-56** authorize the Fire Chief to sign the Agreement between the Auburn City Fire Department and the Placer County Office of Education for use of the Maidu Fire Station.

6. **2007 Clean Air Grant Contract – Slow Fill Compressed Natural Gas (CNG) Station**

By **RESOLUTION 07-57** authorize the Director of Public Works to sign and execute the 2007 Clean Air Grant Contract with the Placer County Air Pollution Control District for the Slow Fill Compressed Natural Gas (CNG) Fueling Station.

7. **Appointment of City Manager as the Business Improvement District (BID) Advisory Board**

By **RESOLUTION 07-58** appoint the City Manager as the Advisory Board for Auburn Old Town and Downtown Districts.

8. **Proposed Decision of Administrative Law Judge Denying the Disability Retirement Application of Bonnie Spaulding**

By **RESOLUTION 07-59** adopt the proposed decision of Administrative Law Judge Ralph J. Venturino, denying Bonnie Spaulding's application for disability retirement.

9. **Quarterly Report of Investments – Quarter Ending March 31, 2007**

Receive, review and file the "City of Auburn Quarterly Investment Report" for the quarter ending March 31, 2007.

10. **Adoption of "Appropriations Limit" for Fiscal Year 2007-08**

By **RESOLUTION 07-60** adopt the Fiscal Year 2007-08 "Appropriations Limit" for the City of Auburn in the amount of \$10,801,159.

11. **2nd Reading of an Ordinance Amending the Redevelopment Plan for the Auburn Redevelopment Project**

Council Member Holmes requested the item be removed from Consent Calendar

***** End of Consent Agenda *****

By **MOTION** approve the Consent Agenda with the exception of Items 2 and 11. **MOTION: Hanley/Holmes/Approved 4:0 (Absent Snyder)**

11. **2nd Reading of an Ordinance Amending the Redevelopment Plan for the Auburn Redevelopment Project**

Removed from Consent Calendar.

Council Member Holmes stated that he pulled the item from the Consent Calendar to give the public the opportunity to comment.

Ernest Glover, President of GRC, gave a brief report on the history of the adoption of the plan. He stated that the plan has been in the process of being formulated for almost a year. He stated that newsletters have been sent out and community meetings have been held. Following that, a Joint Public Hearing was held on April 9, 2007 which was continued to April 23, 2007 and closed. He stated that a number of people testified, for and against the plan, at those meetings. On May 7, 2007 the ordinance was introduced and there was significant discussion with the Council. He stated that it was decided to discuss the eminent domain policy in more detail. It would be part of an ordinance adopted by the Council setting forth the city's eminent domain policy to be completed by July 1, 2007. He advised that formal adoption was scheduled for this meeting. He advised that the eminent domain policy only remains in effect for twelve years by state law.

Those who spoke in opposition to the expanded redevelopment area and/or to include Eisley's Nursery and its designation as a blighted area were:

Earl Eisley, Owner of Eisley's Nursery
Norma Harris, Owner Harris Industrial Gases, Auburn Iron Works
Jack Hertel, 860 Ridge Road, Newcastle
Earlene Eisley Freeman, Owner Eisley's Nursery
Penny Watson, 1553 Lakeview Drive, Newcastle
Thomas Furtauer, owner of auto repair shop, 320 Grass Valley Highway
Vernon Kraus, 350 Timberline Lane, Auburn
B. Nicholas, prior Auburn resident, currently Newcastle resident
Paul Ross, Newcastle resident, Auburn businessman
Diane Ambrose, 291 Russell Road, Auburn, Eisley's Nursery Employee
Michael Hill, represented Ralph, Ward and Kate Hubbard, family residents
since the 1850's
Sue Shultz, Cool resident for 32 years

Ann Virgil Gordon, Auburn native, previous Easley Nursery Employee
Tim Reuter, Auburn resident, Real Estate Developer
Dick Webber, 170 Racetrack Street (also requested his property removed
from the Redevelopment Plan area)
Kathryn Rice, 4120 Eagles Nest, Auburn
Coy Miller, owner of the Sleep Shop on Highway 49 and Palm Avenue,
Easley Tenant
Nadar Haddad, Car Audio and Upholstery Shop owner, Highway 49,
Easley Tenant
Bill Johnson, Auburn resident since 1945
Philip Johannsen, suggested Mr. Easley and the owner of the Elmwood
Motel work together on beautifying the motel.
Sue Thompson, owner of Home Town Realtors
Gail Nunes, 851 Holly Hills Drive, Auburn
Walt Shultz, Auburn businessman, resident of Cool
Frank Ziegelmann, Applegate resident
Jeff Bryan, lifetime resident, long-time Auburn businessman
Dan Sokol, 1330 Deerwood Place, Auburn
Ron Blair, 311 Robbie Drive, Auburn
Ken Yeo, 595 Grass Valley Highway, Auburn (requested his property
and Easley's be excluded from the Redevelopment Plan area)
John Lloyd, Auburn resident and business owner
Art Murschel, owner of R & J Automotive, highway 49, Easley Tenant
Sally Dwyer, 28-year Auburn resident

Mayor Pro Tem Nesbitt closed the Public Comment.

RECESS for 6 minutes to 7:25 p.m.

Mayor Pro Tem Nesbitt stated that any hearing on an eminent domain policy for the Authority will occur in June. He advised that he will make certain, regardless of the outcome of the meeting in progress, there will be public notification prior to the upcoming discussions.

Iris Yang, Special Counsel to the Auburn Urban Development Authority (AUDA), responded to the questions put forth during the public comment. She said if eminent domain is authorized by the plan, it does not mean any property will be acquired. She explained that there are many extensive procedures in the eminent domain law which must be followed. She stated that eminent domain is a very expensive way to acquire property. She explained the eminent domain law in detail, reiterating that residential property is excluded.

Ernie Glover, President of GRC Redevelopment Consultants, addressed the issue of blight. Designating "blight" builds a case "for the use extraordinary tax increment authorities that a redevelopment agency has

to increase the amount of revenue that is available to the community without otherwise raising taxes.” He stated that there are ten basic criteria that are viewed and only one refers to the specific condition of a property. The other criteria are such things as ground water going through property, high crime rate, flooding areas, and water and sewer supply. He advised that those issues are no fault of the property owner. He explained that redevelopment is really a financing tool that can be used to provide and improve public facilities and support individual businesses. He explained that including eminent domain in the plan makes its use more readily available and provides tax benefit to the seller.

City Manager Richardson noted how the Redevelopment Agency was employed in the past. He advised that it was involved in the renovation of Old Town. He said the agency is working in conjunction with the business community to find a way to provide additional parking. The current Streetscape Project was created through the Redevelopment Agency. The Redevelopment Agency works with Downtown and Old Town to create the type of market area the City’s businesses want to have. The agency works with individual property owners to try to create cooperative financing agreements to help upgrade the properties.

Mr. Richardson explained that the issue before the Council is to establish the new redevelopment project area. He stated that the question of how eminent domain will be used will be discussed in June. At that time, the parameters of eminent domain usage will be defined for the next twelve years.

Council Member Holmes stated that his family has been in Auburn for many generations. He advised that some of his family members have worked at Eisley’s in the past and, therefore, is hopeful that the issue can be resolved to everyone’s satisfaction. He stated that he does not want the use of eminent domain to transfer property from one private owner to another. He suggested a postponement of the vote to June 11, 2007 so that there could be a definition of what eminent domain might, or might not, include.

Mayor Pro Tem Nesbitt said that whenever the next meeting is held, he would make certain there will be proper public notice announcing the date and time.

Council Member Hanley stated that the issues to be discussed over the next couple of weeks are the (1) expansion of the redevelopment area and (2) the Nevada Street and Highway 49 area. He said the redevelopment plan would allow the city to keep more money in the community to build infrastructure, improve roads, drainage, sidewalks, etc. in the Highway 49/Nevada Street area. He stated that he was opposed to

the use of eminent domain to transfer privately owned commercial property to another private entity. He stated he did not believe it was a proper tool for government to use in that manner. He stated that each individual property owner, in addition to the Eisleys, should be treated equally and that government should not take any adverse action against any of them. He stated that he felt the Redevelopment Plan Ordinance should clearly state that eminent domain cannot be used to transfer property from one private property owner to another. He stated that the ordinance to expand the redevelopment area should be on the same June agenda as the action on eminent domain.

Council Member Powers stated that many positive things come from a redevelopment area, such as Project Auburn. She said expanding the redevelopment area allows for more financing opportunities for small business owners. She said other projects under consideration are parking studies, traffic studies and the Streetscape design. Ms. Powers advised that it would help increase revenues of existing businesses. She stated that combining the discussion of the issues of redevelopment area expansion and eminent domain would be acceptable to her. She asked if the elimination of some properties will be discussed at the June meeting.

Mayor Pro Tem Nesbitt stated that the policy will define when and how eminent domain will be utilized, which could include some geographical exclusions or the exclusion of property transfer from private party to private party. He stated the policy will define how the plan works. Iris Yang concurred. He said he would personally be looking toward some geographical exclusions from the policy and other restrictions.

Council Member Holmes asked for a draft of the eminent domain ordinance by the first meeting in June. City Manager Richardson stated that he would have available the basic parameters next week as well as a sample policy.

By **MOTION** continue the second reading of the **ORDINANCE** to a June meeting. **MOTION: Hanley/Holmes/Approved 4:0 (Absent Snyder)**

2. **Resolution of Intention to Consider Abandoning a Portion of Right-of-Way for Pine Street and Kenmass Avenue**

Removed from Consent Calendar.

Council Member Holmes referred to the substitute memorandum to the Council. He questioned the recommendation that the city staff be directed to proceed with the sale without first holding the Public Hearing.

Engineering Division Manager Schroeder responded. She stated that Council previously adopted the category placement of the property as “undevelopable.” She said at this point Public Works in making certain the city is in compliance with the Streets and Highway Code, relative to a Public Hearing for abandonment.

By **MOTION** wait for a corrected resolution prepared by staff with the elimination of the public hearing. **MOTION: Holmes/No second/Motion failed**

By **RESOLUTION 07-51** designate city right-of-way along Pine Street and Kenmass Avenue into Category 1, Undevelopable City Properties, per the City Policy of the sale of excess city right-of-way and City-owned parcels adopted on March 12, 2007 by Resolution 07-33 because the size, shape, location of the land do not permit its development with a building pursuant to current City zoning standards other than in conjunction with adjacent land owned by Steven Cavolt. The designated city right-of-way is in the area as shown in the revised exhibits. **MOTION: Hanley/Holmes/ Approved: 4:0 (Absent Snyder)**

By **RESOLUTION 07-52** direct City staff to proceed with the sale of the City right-of-way to adjacent property owner, Steven Cavolt in exchange for the consideration required by the policy referenced in Resolution 87-51. **MOTION: Hanley/Holmes/Approved 4:0 (Absent Snyder)**

By **RESOLUTION 07-53** the Auburn City Council hereby sets a public hearing for Monday, June 11, 2007 at 6:00 p.m. in the City Council Chambers to take comment on the proposed abandonment. **MOTION: Hanley/Holmes/Approved 4:0 (Absent Snyder)**

12. **Public Comment**

Engineer Division Manager Schroeder introduced Courtney Barrett, Engineering Assistant with the Department of Public Works to the Council.

Council Member Holmes reiterated that the Auburn-Placer Performing Arts Committee presented a wonderful concert at the high school auditorium. He advised that there were two Council Members from Colfax and Loomis in attendance at the concert. He said it demonstrated the need for the Performing Arts Center.

Mayor Pro Tem Nesbitt requested, with the consent of the Council, that Agenda Items 15 and 16 be heard prior to the Public Hearing.

PUBLIC HEARING

13. **Appeal of Michael E. Walker of Planning Commission's Denial of a Tentative Parcel Map and Tree Permit-230 Live Oak Street-Files LS 06-2; TP 06-5**

Associate Planner Steve Geiger introduced the item. He explained that the applicant had requested a continuance to the June 11, 2007 meeting. He stated the applicant has agreed to waive the 60-day requirement to hear an appeal.

By **MOTION** continue the public hearing for the appeal of Michael E. Walker to June 11, 2007, based on the applicant's request. **MOTION: Holmes/Hanley/Approved 4:0 (Absent Snyder)**

14. **Amendments to Sign Guidelines in the Historic Preservation Architectural Design Guidelines**

Associate Planner Steve Geiger introduced the item and provided the Council with background information. He stated the Council previously gave staff direction to prepare an amendment to the sign guidelines to specifically allow plastic or other synthetic materials in signs when they replicate wood, metal or other natural hard materials. He showed the Council a variety of acceptable materials.

Council Member Powers would like to see more public comment from business owners. Community Development Director suggested that the public most likely was not present for comment because the amended guidelines are much more lenient than current guidelines. He stated that past controversy was over the more restrictive guidelines. He said that business owners would have more alternatives with the amended guidelines.

Council Member Hanley asked how decisions are made regarding logo compatibility with the historic setting. Mr. Geiger stated that in reviewing a logo the Planning Commission or Council can make the determination that the logo is not in keeping with the historic time frame and prohibit it. They cannot change the colors of the logo. City Attorney Colantuono explained standards that the Commission might apply regarding current or historic aesthetic components.

Michael Kirby, owner of Timberline Sign Company, and sign painter, stated that the new materials are very good. He stated that as a craftsman, he is put in a position to duplicate signs with older materials. He said a lot of the new materials work very well and there is many good choices.

By **RESOLUTION 07-61** approve the amendments to the sign guidelines contained in the Historic Preservation Architectural Design Guidelines (Section VI, Commercial Design Guidelines, I. Signage) (HDR 07-1), allowing for plastic letters and other synthetic materials of high quality to be used on signs within the Old Town and Downtown Design Review Districts. **MOTION: Hanley/Holmes/Approved 4:0 (Absent Snyder)**

REPORTS

15. League of California Cities Legislative Update

Sequentially followed Item 12, Public Comment.

Tony Cardenas, League of California Cities Public Affairs Regional Manager for the Sacramento Valley Division, provided the Council an update on the League's activities. The League Board adopted three goals when it met in November 2006. They are (1) infrastructure (2) eminent domain reform and (3) affordable housing. He said there is now money available for counties and local government for infrastructure issues. He stated the League is attempting to become more pro-active by sponsoring Senate bills to help cities.

Mr. Cardenas said that eminent domain is a huge issue. The League has put together a package to protect property owners and businesses. The language has been finalized for a new bill. The League wants to put it before the Legislature, as a bipartisan effort, and have it passed as a constitutional amendment by a 2/3 vote of both chambers. He said they would like it to go before the voters in June, 2008. Mr. Cardenas advised that they are still searching for an author of the bill.

Mr. Cardenas then updated the Council on upcoming League events. Council questions and comments followed.

16. Wave Broadband Report

Glenn Tonkin, Chairman of the Telecommunications Commission, introduced Jerry Rotondo, Wave Broadband Vice president for the Sacramento area.

Mr. Rotondo provided an update to the Council and advised the Council regarding new Internet/Cable TV packages for Auburn. He said the local call center works very well and has enhanced customer service. Wave continues to offer new, high-definition channels. At the end of this month Wave will offer a limited basic service, 28 channels, for those who would prefer that service. Analog channels are being relocated to digital format, in step with the FCC mandate of 2009 to go all digital. Free digital boxes

will be given to customers to make the transition easier. Internet speeds will be tripled at no additional cost to the customers. Customers will be given more choices.

Council questions and comments followed.

17. **City Council Committee Reports**

Council Member Holmes advised that the Youth Advisory Commission met last week. He said the group is working on a couple of projects, one having to do with the stormwater management system, the other a community event board reflecting youth activities.

Council Member Holmes stated that he had previously provided information on his Cap-to-Cap trip and wanted to add that the local representative is no longer on the House of Representatives Appropriations Committee. Mr. Holmes sent a letter to the Chairman of the sub-committee dealing with energy and water with the City's issues and is awaiting acknowledgement.

COUNCIL BUSINESS

18. **Leadership Auburn Gateway Project**

Administrative Services Director Heath announced the Leadership Auburn Class of 2007 was at the meeting to discuss the Gateway Landscape Project and that his classmate, Karen Clausen, Landscape Architect, was in attendance. He explained that the plan is to improve and landscape the existing mine exhibit on the City-owned lot at the corner of High Street and Auburn Folsom Road.

Karen Clausen outlined the preparation for the project and the various groups and individuals who have been involved. She then explained how the site will look with the proposed improvements.

Mr. Heath advised that two options for irrigation were reviewed. He said it was most feasible to get into a cost-sharing agreement with the existing property owner with the approval of the existing lease-holder. He stated that it would cost the city no more than \$500 annually for water. He said all other costs would be minimal.

Council Member Nesbitt and Ms. Clausen discussed sign placement. Council Member commended the volunteers of the Class of 2007. Council Member Holmes discussed the existing vegetation with Ms. Clausen. He stated that Ms. Fleming had planted some native plants and he wanted to make certain they were not disturbed with the new design.

Ms. Clausen stated that healthy existing plants would remain. Council Member Powers and Mayor Pro Tem Nesbitt expressed their appreciation for the Class of 2007.

By **MOTION** approve the landscaping plans for the Gateway Landscape Project as presented by the Leadership Auburn Class of 2007 and authorize the City Manager to negotiate and execute a cost-sharing agreement related to the use of a private water sources for irrigation purposes. **MOTION: Powers/Holmes/Approved 4:0 (Absent Snyder)**

19. **Workforce Housing; Police and Firefighter Recruitment and Retention**

Council Member Hanley stated that he and Council Member Powers joined together to present the item to Council. Their proposal was to direct staff to contact the League of California Cities and local government entities to see what their experience was in providing workforce housing.

Council Member Powers stated that there are some employees that work in the city that are not able to afford city housing, namely police, firefighters and teachers. She stated that, as a city, a pro-active stance should be taken so that "those who work for the city are able to live here as well."

Police Chief Valerie Harris said there is a great need for the program. She said it would be advantageous to have the people who work within the community be connected to the community by residing in Auburn. She said that most of her staff lives outside of Auburn because of the high price of housing in the area.

Council Member Holmes stated that he has been working on the issue for the past four years. He has been looking at the feasibility of a co-housing project. There is a group currently studying the co-housing idea. Mr. Holmes stated that he supported the proposal to research workforce housing. He advised that possibly not only public safety personnel should be included when considering for workforce housing.

Chief Harris stated that having first responders in the community may be the quality that makes the public safety group unique, although she said she understood Council Member Holmes' concern for other employees.

Mayor Pro Tem Nesbitt stated that he concurred with the idea of workforce housing. He stated that, when considering Redevelopment, possibility the reinvestment of the 20 % that comes off the tax increment should be considered. He supported the Workforce Housing Program.

By **MOTION** direct city staff to complete the necessary preliminary research to enable the City Council to decide whether or not to facilitate workforce housing for Auburn Police Officers and Firefighters. **MOTION: Hanley/Powers/Approved 4:0 (Absent Snyder)**

ADJOURNMENT

Mayor Pro Tem Keith Nesbit, without objection, adjourned the meeting at 9:21 p.m.

Keith Nesbitt, Mayor Pro Tem

Joseph G. R. Labrie, City Clerk

Minutes transcribed by Deputy City Clerk Anne M. Cooley